

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 GEOFFREY L. WARD
State Bar No. 246437
4 300 S. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2660
Facsimile: (213) 897-2804
6 *Attorneys for Complainant*

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Statement of Issues
11 Against:

12 **JANETTE CARMELA LOPEZ**

13 Respondent.

Case No. *2013-807*
STATEMENT OF ISSUES

14 Complainant alleges:

15 **PARTIES**

16 1. Louise R. Bailey, M.Ed., R.N. (Complainant) brings this Statement of Issues solely in
17 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
18 Consumer Affairs.

19 2. On or about December 22, 2011, the Board of Registered Nursing (Board) received
20 an application for Licensure by Examination for a Registered Nurse License from Janette
21 Carmela Lopez (Respondent). On or about November 23, 2011, Janette Carmela Lopez certified
22 under penalty of perjury to the truthfulness of all statements, answers, and representations in the
23 application. The Board denied the application on May 14, 2012.

24 **JURISDICTION**

25 3. This Statement of Issues is brought before the Board under the authority of the
26 following laws. All section references are to the Business and Professions Code unless otherwise
27 indicated.
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(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

...

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

REGULATIONS

6. California Code of Regulations, title 16, section 1444 states, provides criteria for evaluating whether a crime or act is substantially related to the practice of registered nursing:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code."

FIRST CAUSE FOR DENIAL OF APPLICATION

(Conviction of a Substantially Related Crime)

7. Respondent's application is subject to denial under sections 480 subdivision (a)(1), 2736, and 2761 subdivision (f) because she was convicted of a crime substantially related to the practice of registered nursing.

8. On or about June 23, 2010, Respondent pled nolo contendere to and was convicted of one misdemeanor count of violating Penal Code section 245, subdivision (a)(1) [assault with a deadly weapon] in the criminal proceeding entitled *People v. Janette Carmela Lopez* (Super. Ct. Los Angeles County, 2010, No. 0GN02261). The Court sentenced Respondent to serve 1 day in Los Angeles County Jail, placed her on 36 months' probation.

1 9. The circumstances surrounding the conviction are that on or about April 21, 2010,
2 Respondent went to her ex-boyfriend's residence and, when he came to the door, hit him in the
3 head with a metal club. He fled and called the police. The police found her waiting by his
4 building near a broken bedroom window that she admitted breaking and a metal club.

5 10. At the time of the conviction, Respondent was a certified nurse assistant. On or about
6 July 23, 2010, the California Department of Public Health revoked her certification pursuant to
7 Health and Safety Code Section 1337.9(a)(2) because of her criminal conviction.

8 11. Under title 16 section 1444 of the California Code of Regulations, Respondent's
9 assault on her ex-boyfriend is categorically considered substantially related to the qualifications,
10 functions or duties of a registered nurse.

11 12. On or about August 15, 2011, Respondent's conviction was dismissed pursuant to
12 Penal Code section 1203.4.

13 **SECOND CAUSE FOR DENIAL OF APPLICATION**

14 **(Revocation of Nurse Assistant Certificate)**

15 13. Respondent's application is subject to denial under section 2761 subdivision (a)(4)
16 because in July 2010 the California Department of Public Health, a government agency and a
17 health care professional licensing board, revoked her nurse assistant certificate.

18 14. Paragraphs 7 through 12 above are incorporated into and realleged in this cause for
19 denial of application.

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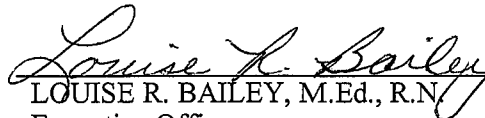
PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Denying the application for Licensure by Examination for a Registered Nurse License from Janette Carmela Lopez; and

2. Taking such other and further action as deemed necessary and proper.

DATED: March 19, 2013



LOUISE R. BAILEY, M.Ed., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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